

REMARKS

Currently, claims 1-20 are pending. Applicant has canceled claims 1-18 and 20 without prejudice to pursuing the subject matter of these claims in one or more continuing applications.

Applicant has added new claims 24-53, which depend directly or indirectly from independent claim 19. Support for new claim 24 can be found throughout the specification, for example at page 3, and in Figure 2e and the accompanying description thereto. Support for new claims 25-27 can be found throughout the specification, for example at page 3. Support for new claims 28-33 can be found throughout the specification, for example at page 4. Support for new claims 34-36 can be found throughout the specification, for example at page 5. Support for new claims 37-42 can be found throughout the specification, for example at pages 6-7. Support for new claim 43 can be found throughout the specification, for example at page 2. Support for new claims 44-48 and 50-53 can be found throughout the specification, for example at page 5, in Figures 3 and 4a-4c, and in the description accompanying these figures. Support for new claim 49 can be found at page 9.

Applicant addresses the concerns of the Examiner in the order in which they appear in the Action.

I. Claim Objections Overcome

Claims 1-20 have been objected to because they contain the phrase “ring-like” body which renders the claim(s) indefinite. Applicant respectfully traverses this objection.

As noted above, claims 1-18 and 20 have been canceled without prejudice.

While Applicant believes that, in view of the specification, the phrase “ring-like” is not indefinite, Applicant has amended claim 19 to replace “ring-like” with “ring” in order to expedite prosecution.

Claims 10 and 11 have been objected to because of an informality. As noted above, these claims have been canceled without prejudice.

Applicant respectfully requests that these objections be withdrawn.

II. Section 112 Rejection Overcome

Claims 1-20 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant respectfully traverses this rejection.

As noted above, claims 1-18 and 20 have been canceled without prejudice.

Regarding claim 19, this claim has been rejected as being indefinite because it recites “an endless angular extent”. Applicant respectfully submits that these recitations do not render the claim indefinite as one of skill in the art would appreciate that “an endless angular extent” clearly means that the ring body is made to have a closed form, i.e. no split therein so that the ring body has no free ends. Applicant respectfully submits that this is not only self-evident from the recitations themselves, but that it is further so given the further recitations in the claim that an axial split is formed in the ring body.

The further rejections of claims 1 and 2 have been obviated by the cancellation of these claims.

For at least the foregoing reasons, Applicant respectfully requests that these rejections be withdrawn.

III. Section 102(b) Rejection Overcome

A. Claims 1-5 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,151,779 (Timmer). Applicant respectfully traverses this rejection. As noted above, claims 1-5 have been canceled without prejudice. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

B. Claims 1-4, 6, and 15-16 have been rejected under 35 U.S.C. §102(b) as being anticipated by PCT Publication No. WO 00/16837 (Christrup *et al.*). Applicant respectfully traverses this rejection. As noted above, claims 1-4, 6 and 15-16 have been canceled without prejudice. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

C. Claims 1-8 and 19-20 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,446,522 (Hoard). Applicant respectfully traverses this rejection.

As noted above, claims 1-8 and 20 have been canceled without prejudice. Accordingly, Applicant respectfully requests that these rejections be withdrawn.

Regarding claim 19, Applicant has amended claim 19 to recite a method of fixing a first part of a multi-part assembly to a second part thereof which comprises:

providing a fixation device having a ring body which is manufactured with an endless angular extent and an integrally formed weakened zone therein, forming an axial split in the body at the weakened zone, and interposing the fixation device between the first and second parts such that the first and second parts are fixed together through the fixation device.

Support for amendments to claim 19 can be found in claim 20, which has been canceled in this Amendment. Amended claim 19 is clearly not anticipated by Hoard.

Claim 19 recites “a ring body which is manufactured with an endless angular extent and an integrally formed weakened zone therein.” The Action asserts that Hoard teaches a fixation device (11) having a ring-like body which is manufactured with an endless angular extent (Figure 1). Applicant notes that retaining ring (11) does not have a ring-like body which is manufactured with an endless angular extent. Instead, as stated in Hoard at column 2, lines 49-50, the ring is split to have separable ends. Applicant does note that Hoard proposes a ring having an endless angular extent at column 3, lines 30-35, which describes how to construct a retaining ring exemplifying the invention of Hoard. At these lines, Hoard stated:

A retaining ring exemplifying the invention has been constructed by cutting a 0.092” section from a length of annealed stainless steel tubing having an inside diameter of 2.5” and an outside diameter of 2.91”. The ring was split to have two ends, and one was shaped to have a tab .875” long with a radial thickness of .040”.

However, the ring described by Hoard at column 3, lines 30-33, which has been cut from a length of annealed stainless steel tubing, does not have an integrally formed weakened zone as recited in amended claim 19. Hoard makes it clear at column 3, lines 30-35 that the ring 11 is made with a closed form without a weakened zone. There is no suggestion or motivation in Hoard to providing a fixation device having a ring body which is

manufactured with an endless angular extent and an integrally formed weakened zone therein as recited in claim 19.

For at least the foregoing reasons, Applicant respectfully submits that claim 19 is patentable over Hoard and requests that this rejection be withdrawn.

IV. Section 103(a) Rejection Overcome

Claims 1 and 6-20 have been rejected under 35 U.S.C. §103(a) as being unpatentable over PCT Publication No. WO 01/28887 (Brand *et al.*) and further in view of U.S. Patent No. 4,151,779 (Timmer). Applicant respectfully traverses these rejections.

Amended claim 19 recites a method of fixing a first part of a multi-part assembly to a second part thereof which comprises:

providing a fixation device having a ring body which is manufactured with an endless angular extent and an integrally formed weakened zone therein, forming an axial split in the body at the weakened zone, and interposing the fixation device between the first and second parts such that the first and second parts are fixed together through the fixation device.

As noted by the Action, Brand neither discloses nor suggests providing a fixation device having a ring body which is manufactured with an endless angular extend and an integrally formed weakened zone therein. Brand also does not disclose forming an axial split in the body at the weakened zone. While Timmer may make up for the first deficiency in Brand, by proposing ring 1 having a weakened section consisting of three hinges 3, 4, 5 and two strip-like elements or strips 6 and 7, Timmer clearly does not teach or suggest forming an axial split in ring 1 at the weakened section.

Instead, Timmer always maintains an endless angular extent through the provision of the strips 6, 7 which bridge the gap which the Action equates to the “weakened zone” of claim 19. Timmer makes clear at column 1, lines 30-35 that the problem to be solved by Timmer “is achieved by providing a ring with a closed uninterrupted angular shape and including a weakened part which allows the adjacent endparts to be pressed to each other without disengaging the endparts from the weakened part” (emphasis added). Thus, Timmer teaches away from the recitations of claim 19 by proposing use of a closed ring, in particular one in which the weakened part between the endparts of the ring 1 are bridged by hinging strips 6, 7. Timmer provides no suggestion or motivation to cut

through the hinging strips 6, 7 so as to provide the ring 1 with an axial split, as claimed. In fact, to do so would negate the solution proposed by Timmer.

Even if, for the sake of argument, one were to be motivated to form an axial split in ring 1 of Timmer, which Applicant strongly asserts one would not be motivated to do, the Action has not adequately described how one would have a reasonable expectation of success that the resulting split ring could be successfully used to “interpose[e] the fixation device between the first and second parts such that the first and second parts are fixed together through the fixation device” as recited in claim 19. If one were to split the device of Timmer, it would split at one of the three hinges 3, 4, or 5. The resulting ring would have strips 6 and 7 attached to one or both of the free ends of the ring. These strips would clearly interfere with the ability to “interpose[e] the fixation device between the first and second parts such that the first and second parts are fixed together through the fixation device” as recited in claim 19. Accordingly, Applicant respectfully submits that even if one were motivated to modify the teachings of Timmer to form a split in ring 1, and again Applicant asserts that one clearly would not be motivated to do so, there still would be no reasonable expectation of success to achieve the method recited in claim 19.

For at least the foregoing reasons, Applicant respectfully submits that claim 19 is patentable over Brand in view of Timmer.

V. Newly Added Dependent Claims Are Patentable Over the Cited References

New claims 24-53 depend, either directly or indirectly, from patentable independent claim 19. For at least this reason, Applicant respectfully submits that these dependent claims are also patentable over the cited references. Applicant expressly reserves the right to argue the separate patentability of one or more of these dependent claims at a future date.

VI. Conclusion

The concerns of the Examiner addressed in full, Applicant respectfully requests the withdrawal of all outstanding objections and rejections, and the issuance of a Notice of Allowance forthwith. Applicant encourages the Examiner to direct any questions to the undersigned, who may be contacted at (919) 483-9024.

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Respectfully submitted,

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